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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,616	12/22/2000	Robert Eugene Krautkramer	659/773	4594

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EXAMINER

PRONE, JASON D

ART UNIT PAPER NUMBER

3724

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

JP

Office Action Summary	Application No. 09/748,616	Applicant(s) KRAUTKRAMER ET AL.	
	Examiner Jason Prone	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-148 is/are pending in the application.
- 4a) Of the above claim(s) 1-30, 43, 45, 46 and 48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-42, 44 and 47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 47 is rejected under 35 U.S.C. 102(b) as being anticipated by Bush, Jr. et al. (3,908,495).

Bush, Jr. et al. discloses the same invention including a plurality of pockets (37), the pockets being positioned to support the substrate along its length (Fig. 1), a plurality of circular saw blades (58), the saw blades cut the substrate into a plurality of rolls and exert an upward vertical force on the rolls while the blades are in contact with the rolls (58), the pockets are configured to maintain the rolls in the pocket during the cutting procedure without the use of an external structure to hold the rolls in the pocket (37), and the pockets have channels (Fig. 1 space in-between items "37").

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 31-37 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wheless (2,123,580) in view of Bush, Jr. et al. (see page 9 of this Office action for examiner added reference numbers to Wheless).

5. In regards to claim 31, Wheless discloses the same invention including a cutting device (50), a pocket (15), the pocket includes an open end (81), a closed end (82), a first planar surface (83 in between lines), a second planar surface (84 in between lines), and the second planar surface is larger than the first planar surface (83 and 84).

Wheless further discloses a concave surface between the planar surfaces that forms the closed end (82), a plurality of channels (Fig. 1), a sprocket (10) that supports the pocket and rotates about an axis (11).

In regards to claims 32-37 and 42, Wheless discloses the distance between the first and second planar surfaces is greater than the diameter of the log (16), the cutting device exerts a force on the log (Fig. 4), the pocket counterbalances the forces (Fig. 4), the first planar surface and the concave surface counterbalance the forces exerted on the log (Fig. 4), the cutting device is configured to pass through the channels (Fig. 1), the cutting device comprises a circular saw blade (50), and the sprocket supports a plurality of sprockets (Fig. 4).

However, Wheless fails to disclose the pocket is configured to maintain the log in the pocket during the cutting procedure without the use of an external structure to hold the log in the pocket and the cutting device comprises circular saw blades. Bush, Jr. et al. teaches that it is old and well known in the art of cutting to incorporate a pocket configured to maintain the log in the pocket during the cutting procedure without the use

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of an external structure to hold the log in the pocket (38) and a cutting device that comprises circular saw blades (58). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Wheless with a pocket configured to hold the work piece and circular saw blades, as taught by Bush, Jr. et al., to create a more efficient cutting apparatus.

6. Claims 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wheless in view of Bush, Jr. et al. Wheless and Bush, Jr. et al. disclose the invention but fail to disclose the first planar surface has a width less than about 25mm and a length between 50mm and 360mm, the second planar surface has a width less than about 155mm and a length between 50mm and 360mm, the concave surface has a radius of curvature between 12mm and 130mm, and the distance between the planar surfaces is between 50mm and 250mm. The logs are between 4 inches and 15 inches (column 1 lines 5-6 in Wheless). In view of this, if one were using the small log (4 inches) it would have been obvious to have made the dimensions of the pocket smaller. These dimensions (the width, length, radius of curvature, and the distance between the planar surface) would have been within an obvious variance in formulating the characteristics of the pocket wherein several millimeters more or less of the desired dimensions would appear to be a matter of practicality of the respective parameter of the work piece. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Wheless with specific dimensions to allow the size of pocket to correspond with a specific sized work piece.

7. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wheless in view of Bush, Jr. et al. (see page 9 of this Office action). Wheless discloses the invention including a pocket (15) including a base defining a horizontal axis (10), an open end (81), a closed end (82), a first planar surface (83), a second planar surface (84), a curved surface (82), and the planar surfaces are at an angle of 60-degrees above the horizontal axis (83 and 84).

However, Wheless fails to disclose the pocket is configured to maintain the log in the pocket during the cutting procedure without the use of an external structure to hold the log in the pocket, the first planar surface has a width less than about 25mm and a length between 50mm and 360mm, the second planar surface has a width less than about 155mm and a length between 50mm and 360mm, the concave surface has a radius of curvature between 12mm and 130mm, and the distance between the planar surfaces is between 50mm and 250mm.

Bush, Jr. et al. teaches that it is old and well known in the art of cutting to incorporate a pocket configured to maintain the log in the pocket during the cutting procedure without the use of an external structure to hold the log in the pocket (38). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Wheless with a pocket configured to hold the work piece, as taught by Bush, Jr. et al., to create a more efficient cutting apparatus with less parts.

The logs are between 4 inches and 15 inches (column 1 lines 5-6 in Wheless). In view of this, if one were using the small log (4 inches) it would have been obvious to

have made the dimensions of the pocket smaller. These dimensions (the width, length, radius of curvature, and the distance between the planar surface) would have been within an obvious variance in formulating the characteristics of the pocket wherein several millimeters more or less of the desired dimensions would appear to be a matter of practicality of the respective parameter of the work piece. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Wheless with specific dimensions to allow the size of pocket to correspond with a specific sized work piece.

Response to Arguments

8. Applicant's arguments filed 13 December 2005 have been fully considered but they are not persuasive. In regards to Bush, Jr. et al., item 37 clearly incorporates a pocket. A pocket is defined as a cavity. In column 5 lines 29-30, Bush, Jr. et al. discloses item 37 clearly has a cavity or pocket. The pockets, of Bush, Jr. et al. clearly disclose channels (Fig. 1). If there were no channels, the saw would not be able to cut the work piece without cutting item 37. In Wheless, item 15 clearly is a pocket. Item 15, of Wheless, is clearly an opening or a receptacle. The pockets, of Wheless clearly disclose channels (Fig. 1). If there were no channels, the saw would not be able to cut the work piece without cutting item 10. If Wheless or Bush, Jr. et al. did not have a cavity, pocket, receptacle, or opening, item 10 of Wheless would be a complete circle while item 37 of Bush, Jr. et al. would resemble a slice of pie.

In response to applicant's argument that Wheless or Bush, Jr. et al. fail to disclose cutting a flexible substrate, a recitation of the intended use of the claimed

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invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case, Wheless and Bush, Jr. et al. are capable of cutting flexible logs. Also, tree logs are flexible substrates. Trees bend when the wind forces them to do so.

Wheless clearly discloses a pocket 15 with a base 10. Base 10 clearly discloses a horizontal axis in Figure 1. Item 10 is a three-dimensional object, therefore, it discloses an axis in at least three directions. In this case, the horizontal axis is defined by axis 11 and since the planar surfaces rotate about 11, the planar surfaces are capable of being 60-degrees above the horizontal axis. Since the planar surfaces are part of a rotating item, measurements of the angles relative to item 11 would depend on the planar surface's orientation relative to item 11. That being said, the planar surfaces can occupy a position that is 60-degrees above the horizontal axis. The claims fail to disclose the specifics of the base and the location of the horizontal axis.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Van Berkel.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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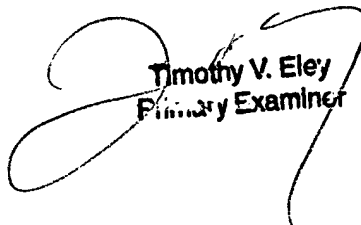
mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is (571) 272-4513. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JP
February 01, 2006


Timothy V. Eley
Primary Examiner

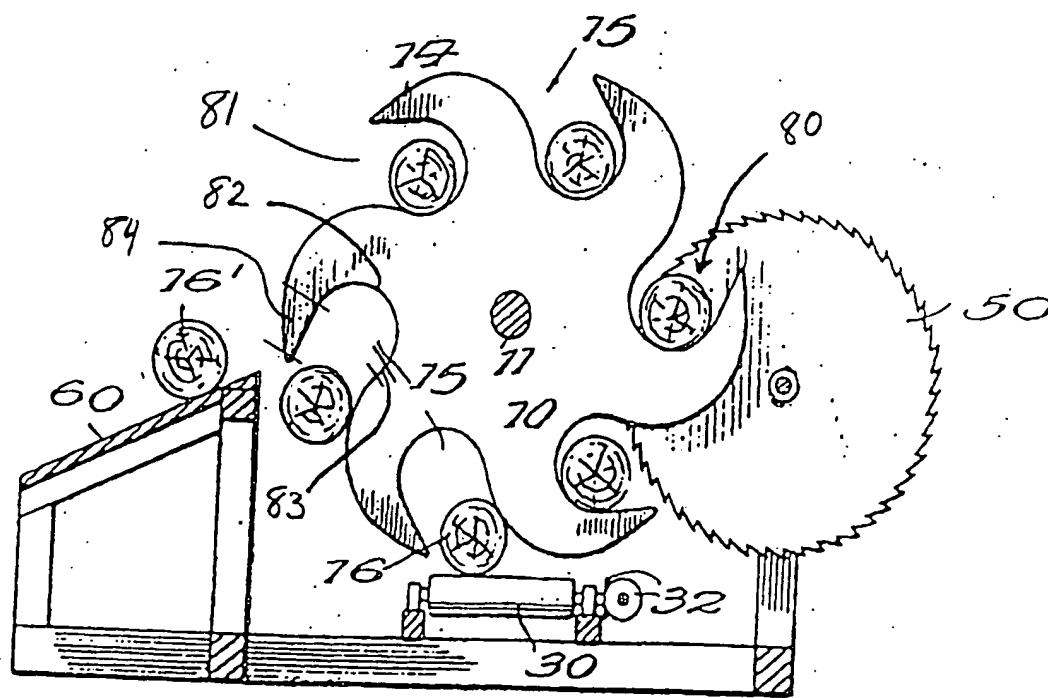


FIG. 4